



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,332	07/02/2003	Edward Goldberg	287/9	3826

27538 7590 04/29/2005

KAPLAN & GILMAN, L.L.P.
900 ROUTE 9 NORTH
WOODBIDGE, NJ 07095

EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
----------	--------------

2642

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,332

Applicant(s)

GOLDBERG, EDWARD

Examiner

Jack Chiang

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-17, 20-30 and 32-49 is/are pending in the application.
- 4a) Of the above claim(s) 2-17, 20-29, 35 and 37-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30, 32-34, 36 and 46-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS

112 First Paragraph Rejection

1. Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 30, it recited that the attachment device is slidable, this is one embodiment. Claim 32 is depending from claim 30, it recited a rotatable attachment device, this is another embodiment. It appears that there is no one embodiment that do both sliding and rotating. In other words, it is either sliding **or** rotating, but not sliding **and** rotating. Therefore, claim 32 is unenabling.

Art Rejection

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 30, 32-34, 36, 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reick (DE 004310602) in view of Johnson et al. (US 20040203501), or vice versa.

Regarding claim 30, Reick shows:

A communication device and at least one attachment (fig. 1);

Art Unit: 2642

The attachment device (12) allows the device to be selectively attached to another item;

The attachment device (12) being slidably extendible from the communication device (10).

Reick differs from the claimed invention in that the attachment device (12) is a clip which is not in the form having one openable gate member.

However, Johnson teaches providing a clip having one openable gate member (23, or 93, or 163).

Hence, the concept of providing an attachment device is well taught by both Reick and Johnson, and it is understood that such clips are interchangeably used in such environment. Therefore, it would have been obvious for one of ordinary skill in the art to use Reick as it is, or to replace Reick's clip with Johnson's clip if the user wants to use the device while maintaining the device with its supporting element (see paragraphs 0018-1129 in Johnson).

Regarding claim 36, Reick shows:

A communication device and at least one attachment (fig. 1);

The attachment device (12) allows the device to be selectively attached to another item;

The attachment device (12) being slidably extendible from the communication device (10).

Reick differs from the claimed invention in that the attachment device (12) is a clip which is not in the form having one openable gate member or an appearance of a carabiner.

Art Unit: 2642

However, Johnson teaches providing a clip having one openable gate member or an appearance of a carabiner (23, or 93, or 163).

Hence, the concept of providing an attachment device is well taught by both Reick and Johnson, and it is understood that such clips are interchangeably used in such environment. Therefore, it would have been obvious for one of ordinary skill in the art to use Reick as it is, or to replace Reick's clip with Johnson's clip if the user wants to use the device while maintaining the device with its supporting element (see paragraphs 0018-1129 in Johnson).

Regarding claim 46, Reick shows:

A communication device and at least one attachment (fig. 1);

The attachment device (12) allows the device to be selectively attached to another item;

The attachment device (12) being telescopingly extendible from the communication device (10).

Reick differs from the claimed invention in that the attachment device (12) is a clip which is not in the form having one openable gate member.

However, Johnson teaches providing a clip having one openable gate member (23, or 93, or 163).

Hence, the concept of providing an attachment device is well taught by both Reick and Johnson, and it is understood that such clips are interchangeably used in such environment. Therefore, it would have been obvious for one of ordinary skill in the art to use Reick as it is, or to replace Reick's clip with Johnson's clip if the user wants to use

Art Unit: 2642

the device while maintaining the device with its supporting element (see paragraphs 0018-1129 in Johnson).

Regarding claims 32 (as best understood), 33-34, 47-49, the combination of Reick and Johnson shows:

An rotatable attachment device (see Johnson, see also 112 above);

A carabiner (see 23, or 93, or 163 in Johnson);

The attachment device (see clips on both Reick and Johnson) being nestable proximate the communication device in a nonextended/retracted position.

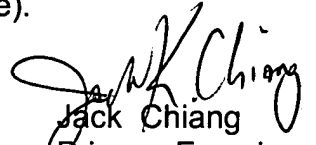
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 571-272-7483. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 2642

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack Chiang
Primary Examiner
Art Unit 2642